A Guide to Advisory Planning Commissions

IMPLEMENTING BILL 62

Ministry of Municipal Affairs
HON. RITA M. JOHNSTON, MINISTER

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A GUIDE TO

ADVISORY PLANNING

COMMISSIONS

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A GUIDE TO ADVISORY PLANNING COMMISSIONS

INTRODUCTION

The purpose of this guide is to set out some of the matters to be considered in establishing and operating an advisory planning commission. It is intended for use by local governments and advisory planning commission members.

The guide is divided into three parts:

1) Overview of the Legislation;
2) Some Matters to be Considered;
3) Model Advisory Planning Commission Bylaws for Municipalities and Regional Districts.

This guide will assist local governments in the preparation of their advisory planning commission bylaws and provide guidance on the operation of commissions once established. The suggestions contained herein are only the basic requirements necessary to meet the intent of legislation and should therefore be varied and augmented to meet local needs. Nothing in the guide is to be construed as a guarantee of legal certainty.

1. OVERVIEW OF THE LEGISLATION

The following paragraphs briefly outline the contents of Section 955 of the Municipal Act and note particular points of interest. Please refer directly to the Act for actual wording and precise interpretation.

Section 955 of the Municipal Act grants local governments the authority to establish advisory planning commissions.

Section 955(1) empowers a municipal council to establish an advisory planning commission which, once established, must advise council on "all matters respecting land use, community planning or proposed bylaws and permits under Divisions (1), (2), (4), (5) and (7)" of Part 29 of the Act. Council has discretion to establish an advisory planning commission but, once established, the Act determines what matters shall be referred to the commission.

Section 955(2) empowers a regional district board to establish an advisory planning commission for one or more electoral areas or a portion of an electoral area. Regional district advisory planning commissions must advise the board on "all matters referred to it by the board or by that director (representing the electoral area) respecting the preparation and adoption of a community plan, or a rural land use bylaw or a proposed bylaw or permit that may be enacted or issued" under Part 29 of the Act. As with municipalities, establishment of an advisory planning commission is at the discretion of the board. However, the matters within the purview of the advisory planning commission are different for a municipality and a regional district. In

addition, regional districts may determine what items within the statutory list are to be referred to the advisory planning commission. This may be done in the bylaw establishing the advisory planning commission or could be done on an ad hoc basis. These options are illustrated in the regional district advisory planning commission bylaw.

Section 955(3) stipulates a residency requirement for advisory planning commission members and provides that no renumeration be paid to individual members, although reasonable and necessary expenses (e.g. car mileage) may be paid.

Section 955(4) authorizes local government to provide for the costs of the advisory planning commission in its annual budget. Costs could include such things as publishing and mailing meeting notices and secretarial services.

Section 955(5) requires the advisory planning commission to keep minutes of their meetings and to make these available to the public.

Section 955(6) stipulates three matters to be provided for in the bylaw establishing the advisory planning commission:

a) The composition of and the manner of appointing members;
b) The procedures governing the conduct of the commission, and
c) The referral of matters to the commission.

These are the only matters that have to be dealt with in the bylaw.

Section 955(7) provides that an applicant for an amendment to a plan or bylaw or issuance of a permit has the right to attend meetings of the commission and be heard. The intent here is that an applicant be allowed to attend those meetings of the commission at which his or her application is considered and further that he or she be given the opportunity to speak to the application. It is also implicit that the commission notifies the applicant when the application is to be considered.

Section 955(8) prohibits any council member, board director, employee or officer of the local government, or approving officer from being appointed a member of any advisory planning commission.

2. SOME MATTERS TO BE CONSIDERED

In establishing an advisory planning commission and, in particular, in enacting an advisory planning commission bylaw, certain matters should be considered. These include:

a) Failure to follow procedures is a common cause of legal challenge. The advisory planning comission bylaw should be clear, simple and easy to follow. It is wise not to burden the bylaw with unnecessary procedures or to simply repeat the wording of the Municipal Act.

b) There are a number of administrative procedures which should be set out for the information of Council or Board, staff and advisory planning commission members. These need not go in the bylaw, but could be in a separate "operating procedures" statement or guideline. Matters which could be included are:

- routing of matters referred to the advisory planning commission: who does what and at what point;
- staff support for the advisory planning commission: who, to what extent and means of access;
- recording, typing and certifying minutes;
- method of reporting to Council or Board;
- reimbursement of expenses;
- annual budget;
- attendance of public and applicants at meetings.

Even though it is not recommended that these operating procedures be part of the bylaw, they should be prefaced by a statement along the following lines:

"These procedures are only guidelines for operation of the advisory planning commission. Failure to follow them precisely does not invalidate any recommendation of the commission. Advisory planning commission bylaw No. _____ sets out the legal requirements of the commission".

3. MODEL BYLAWS

Two sample bylaws have been prepared: one for use by municipalities and the other for regional districts. These bylaws represent the minimum requirements under the Act. Each community should consider any changes necessary to reflect local circumstances. Options or notes are indicated by bold type. Again, these sample bylaws cannot be taken as a guarantee of legal certainty.

(CORPORATE NAME OF REGIONAL DISTRICT)

BYLAW NO. _____

A bylaw to establish an advisory planning commission.

The Board of (Corporate Name of the Regional District) in open meeting assembled enacts as follows:

PART 1 - ESTABLISHMENT AND APPOINTMENT OF THE COMMISSION

1. The board hereby establishes an advisory planning commission for electoral area _____ to make recommendations and advise it about matters specified in section 9 of this bylaw.

2. The board by resolution shall forthwith and in January of each even numbered year appoint members to the advisory planning commission.

3. The advisory planning commission shall consist of _____ members.

   (5 or 7 seem appropriate for areas with small populations, 9 may be more suitable for larger more complicated areas. The board need not appoint a full slate. The provisions of section 955(8) apply).

4. All appointments expire in January of the next even numbered year but may be extended until successors are appointed.

5. The commission shall elect one of its members as chairman and another as vice-chairman to act in the absence of the chairman.

6. In the event of the resignation of a member of the advisory planning commission, the board may appoint a successor to serve the balance of the term of appointment.

7. Council shall appoint a regional district staff member to act as secretary to the commission.

8. The previous appointments to the advisory planning commission for electoral area____ are hereby rescinded.

PART 2 - REFERRALS TO THE COMMISSION

OPTION A - AD HOC REFERRAL BY BOARD

9. The board or the director of the board for electoral area _____ may refer matters respecting the preparation and adoption of a community plan or a rural land use bylaw or a proposed bylaw or permit enacted or issued under Part 29 of the Municipal Act, to the advisory planning commission in order that it may advise the board or director on those matters.

OPTION B - BYLAW DEFINES MATTERS

10. (1) The board or the director of the board for electoral area _____ shall refer the following matters to the advisory planning commission in order that the commission may advise the board or director on those matters:

    (a) All official community plan bylaws, including amendments thereto;
    (b) All rural land use bylaws, including amendments thereto;
    (c) All bylaws enacted under Divisions (4), (5), and (7) of Part 29 of the Municipal Act where such bylaws apply to land not covered by an official community plan.
    (d) All permits issued under Division (5) of part 29 of the Municipal Act.

(2) The board or the director of the board for electoral area _____ may refer to the advisory planning commission matters pursuant to Part 29 of the Municipal Act other than those described in (1) above.

PART 3 - COMMISSION PROCEDURES

11. Any three members of the advisory planning commission shall be a quorum for the purpose of conducting business.

12. Meetings of the advisory planning commission shall be at the call of the chairman, but in any event shall be held not more than _____ days after a matter is referred to the commission under section 9 of this bylaw, unless the board has approved a later date.

13. Each notice of an advisory planning commission meeting and meeting agenda shall be sent by the secretary to each commission member, the secretary of the regional district, as well as any person whose application is being considered.

14. Where any member of the advisory planning commission or his family or his employer or his business associates has any conflict of interest with any matter being considered by the commission that member shall absent himself from all aspects of that consideration.

15. All recommendations of the advisory planning commission shall be reported to the board within _____ working days after the meeting at which the commission made the recommendation.

16. This bylaw may be cited as the "Electoral Area _____ Advisory Planning Commission Bylaw No. _____, 198____."

READ A FIRST TIME THIS _____ day of _____, 198____.

READ A SECOND TIME THIS _____ day of _____, 198____.

READ A THIRD TIME THIS _____ day of _____, 198____.

ETC.

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(CORPORATE NAME OF MUNICIPALITY)

BYLAW NO. _____

A bylaw to establish an advisory planning commission.

The Council of (Corporate Name of the Municipality) in open meeting assembled enacts as follows:

PART 1 - ESTABLISHMENT AND APPOINTMENT OF THE COMMISSION

1. Council hereby establishes an advisory planning commission to make recommendations and advise it about matters specified in section 9 of this bylaw.

2. Council by resolution shall forthwith and in January of each even numbered year appoint members to the advisory planning commission.

3. The advisory planning commission shall consist of _____ members.

   (5 or 7 seem appropriate for small municipalities, 9 may be more suitable for larger municipalities. Council need not appoint a full slate. The provisions of section 955(8) apply).

4. All appointments expire in January of the next even numbered year, but may be extended until successors are appointed.

5. The commission shall elect one of its members as chairman and another as vice-chairman to act in the absence of the chairman.

6. In the event of the resignation of a member of the advisory planning commission, council may appoint a successor to serve the balance of the term of appointment.

7. Council shall appoint a Municipal staff member to act as secretary to the commission.

8. All previous appointments to the advisory planning commission are hereby rescinded.

PART 2 - REFERRALS TO THE COMMISSION

9. All matters respecting land use, community planning or proposed bylaws and permits under Divisions 1, 4, 5 and 7 of Part 29 of the Municipal Act and no others shall be referred to the advisory planning commission by the Municipal Clerk in order that it may advise council on those matters.

PART 3 - COMMISSION PROCEDURES

10. Any three members of the advisory planning commission shall be a quorum for the purpose of conducting business.

11. Meetings of the advisory planning commission shall be at the call of the chairman, but in any event shall be held not more than _____ days after a matter has been referred to the commission under section 9 of this bylaw, unless council has approved a later date.

12. Each notice of an advisory planning commission meeting and meeting agenda shall be sent by the secretary to each commission member, the municipal clerk as well as to any person whose application is being considered.

13. Where any member of the advisory planning commission or his family or his employer or his business associates has any interest in any matter being considered by the commission that member shall absent himself from all aspects of that consideration.

14. All recommendations of the advisory planning commission shall be reported to council within _____ working days after the meeting at which the commission made the recommendation.

15. This bylaw may be cited as "The Advisory Planning Commission Bylaw No. _____, 19____".

READ A FIRST TIME THIS _____ day of _____, 198____.

READ A SECOND TIME THIS _____ day of _____, 198____.

READ A THIRD TIME THIS _____ day of _____, 198____.

ETC.